

## 22nd Session of the WORKING GROUP OF EXPERTS ON PEOPLE OF AFRICAN DESCENT

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By Joe Frans

### **Thematic discussion on Administration of justice: Police violence, prisons and accountability (20 March). Written submission**

*“Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly.”*

— *Martin Luther King Jr., Letter from the Birmingham Jail*

Chairperson, Bernie Sanders said something i want to share with you. ”We are far from eradicating racism. Today in America, if you are black, you can be killed for getting a pack of Skittles during a basketball game. Or murdered in your church while you are praying. This violence fills us with outrage, disgust and a deep, deep sadness”.<sup>1</sup>

”We should not fool ourselves into thinking that this violence only affects those whose names have appeared on TV or in the newspaper. African-Americans are twice as likely to be arrested and almost four times as likely to experience the use of force during encounters with the police”.<sup>2</sup> And the situation is increasingly similar in Europe. It affects the administration of Justice and our police and prison services can not be exonerated from blame either.

Racial discrimination in the administration of justice is a global problem which subverts the rule of law, undermines faith in the legal system, and results in victimization of racial and ethnic groups by the very institutions responsible for their protection. Discrimination exists at all levels of the criminal justice system, from racial profiling in the investigation of crimes, to disproportionate levels of police mistreatment during apprehension and/or custody, to the imposition of harsher sentences on members of certain racial/ethnic groups. In a mutually reinforcing cycle, the overrepresentation of minorities as victims and defendants in the criminal

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<sup>1</sup> Bernie Sanders on Racial Justice

<sup>2</sup> Bernie Sanders on Raacial Justice

justice system undergirds prejudicial attitudes that—left unchecked—perpetuate further discrimination.<sup>3</sup>

No area in ...life is more volatile than the point at which charges of racial injustice intersect with the administration of criminal law<sup>4</sup> Examples include the Watts, California, riot of 1965; the Liberty City, Florida, riot of 1980; and the Los Angeles, California, riot of 1992—all of which were ignited by incidents that dramatized, or were at least perceived as involving, racial unfairness in criminal-law enforcement. The Los Angeles riot is characteristic. It followed the acquittal of police officers charged with criminally assaulting a Black motorist, the now-legendary Rodney King, by a jury that contained no Black members. The outpouring of violent anger following that acquittal reflected, to a large extent, a deep-seated belief on the part of many Blacks that the judicial process is unfairly stacked against them, whether they be defendants or victims of crime.<sup>5</sup>

The history of racism in the United States continues to lead to disparity between blacks and whites in the U.S. judicial system, President Obama argued in a new Harvard Law Review article recently that. The U.S. "cannot deny the legacy of racism that continues to drive inequality in how the justice system is experienced by so many Americans," Obama argued in the 56-page article. Criminal justice reform, Obama wrote, cannot be addressed without "the role of race and bias in shaping the policies that led us to this point."<sup>6</sup> "And in too many communities — especially communities of color and those struggling with poverty and addiction — the justice system has touched almost every family," he said. "The costs of maintaining this system are nothing short of breathtaking."The need for criminal justice reform is now "urgent," Obama said, citing statistics that show in addition to the monetary burden, the U.S. incarcerates nearly 25 percent of the world's prisoners.

"[T]he extent of incarceration in the United States is not just unnecessary but also unsustainable. And it is not making our communities safer," Obama wrote. He said the total costs of incarceration, including those that aren't monetary, "only begin to capture the true costs of our flawed approach to criminal justice."<sup>7</sup>

The question that typically pops up when black people are killed by police is whether racism had anything to do with it. Many studies do show that racism plays a part in causing police to pull the trigger more quickly on black suspects. That's usually because of the implicit racial biases of the individual police officer involved. Law enforcement officials often try to rule out racism by arguing that you can't tell what's in a officer's heart when these killings happen.<sup>8</sup>

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<sup>3</sup> Briefing Papers Racial Discrimination in the administration of Justice, August 2, 2004, Open Society Justice Initiative

<sup>4</sup> Kennedy, 1997; Cole, 1998; Tonry, 1995; *Chicago Kent Law Review*, 1998; *Harvard Law Review*, 1988

<sup>5</sup> Racial Trends in the Administration of Criminal Justice *Randall Kennedy*

<sup>6</sup> Obama blames criminal justice flaws on 'legacy of racism' by Kelly Cohen, January 05, 2017

<sup>7</sup> Obama blames criminal justice flaws on 'legacy of racism' by Kelly Cohen, January 05, 2017

<sup>8</sup> How Structural Racism is Linked to Higher Rates of Police Violence. BRENTIN MOCK @brentinmock

But what a team of researchers at the Boston University School of Public Health recently endeavored to find out was whether the kind of racism that's woven into laws and policies also informs racial disparities in police violence. Their findings were released in the paper, "The Relationship Between Structural Racism and Black-White Disparities in Fatal Police Shootings at the State Level," which was recently published in the *Journal of the National Medical Association*.

The violence that erupted in Charlottesville was widely condemned in European political and media circles, but they are more reluctant to recognise or address similar issues closer to home, writes Karen Taylor.

Anti-Black racism, or Afrophobia, is what most people instinctively associate with racism. There are an estimated 15 million people of African descent living in Europe. Yet paradoxically, people of African descent are the most invisible 'visible' minority on the European political agenda. The European Union and its member states urgently need to tackle the structural racism that prevents the inclusion of Black people in European society. The European Parliament has taken an important first step by holding a discussion on Afrophobia in Europe in its civil liberties committee on 7 September.

According to the European Network Against Racism, ENAR, In the United Kingdom, Black people are stopped by police at six times the rate of White people and Asians at almost twice the rate of Whites. In Belgium, there has been an increase in ethnic profiling by police of young males of African or north African background since the Brussels and Paris terrorist attacks. Police forces in Germany recently very openly profiled North Africans during New Year's Eve celebrations in Cologne. Police violence was allegedly experienced by 75.9 % of the 870 individuals surveyed in the Calais 'Jungle', which included physical violence, verbal abuse, tear gas and sexual violence.

For minorities, structural racism is everyday. A non-white person in a western country typically attends an inferior school, gets hassled by police, suffers job discrimination, and dies poor...What has changed in the US in recent months is that a new kind of violence is getting televised: police violence. This used to be almost invisible. On local TV news, civilians committed the violence, and cops played the heroes.<sup>9</sup>

The Black Lives Matter movement has sparked solidarity actions around the world, from São Paulo to Delhi. But in Europe, actions have been particularly frequent, insistently drawing attention to the plight of black minority populations policed by majority-white forces. What's clear, according to a June 2012 briefing paper from the UK Race and Europe Network, is that racist stereotypes about skin color are prevalent in Europe, and "anecdotal and country-specific evidence shows that people of African descent are consistently and disproportionately

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<sup>9</sup> FT Magazine How to tackle structural racism 'A non-white person in the west typically attends an inferior school, gets hassled by police, and dies poor' May 8, 2015 by Simon Kuperl

discriminated against” in everything from housing to employment. That includes policing: Blacks are six times more likely than whites to be stopped by Paris police, for example, and in a 2010 survey, Sub-Saharan Africans in Spain were by far the most likely group to report having had police check their IDs in the street.<sup>10</sup>

Prison officers are more than twice as likely to be reported for racism than prisoners, according to new government figures showing alleged racist incidents across the prison estate have risen by a quarter.

1. Race is likely to affect who receives the death penalty.
  2. All states have disproportionately black prison populations, but states with the largest white majorities are also the worst.
  3. Even before sentencing, people of color are at a disadvantage. They are less likely to make bail than their white counterparts, spending more time in jail before they are even convicted of a crime.
  4. Black offenders are more likely to receive harsher sentences for the same crimes as white convicts.<sup>11</sup>
  5. Key decision makers in death penalty cases are almost exclusively white.
  6. Once in jail, black inmates are more likely to be in solitary confinement, and are less likely to receive the same mental healthcare as whites.
  7. Black people are also more likely to die while in custody, and are more likely to experience violence at the hands of prison staff.
  8. Even for those who are released, people of color still get the raw end of the deal.
- We are not doing enough to address the mass incarceration of people of african descent.<sup>12</sup>

My conclusion is that there is a need for a systematic follow up of racism in our prisons and within our police forces in Europe. I trust the working group will come back to this particular issue and specifically discuss remedies to the issue of racism in the administration of Justice, and make practical recommendations. Finally, let me end by quoting Desmond Tutu:

***”If you are neutral in situations of injustice, you have chosen the side of the oppressor. If an elephant has its foot on the tail of a mouse, and you say that you are neutral, the mouse will not appreciate your neutrality”.***

I Thank you.

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<sup>10</sup> ACT LOCALLY » JUNE 29, 2015 How Black Lives Matter Has Spread Into a Global Movement to End Racist Policing.The next Baltimore could be somewhere in Europe. BY AMIEN ESSIF

<sup>11</sup> THE ATLANTIC - Our Prison System Is Even More Racist Than You Think. AUGUST 31ST 2015  
By: Aron Macarow

<sup>12</sup> Our Prison System Is Even More Racist Than You Think. AUGUST 31ST 2015 By: Aron Macarow THE ATLANTIC